

RECORDING REQUESTED BY:**AND WHEN RECORDED RETURN TO:**

City Clerk
 City of Santa Barbara
 P.O. Box 1990
 Santa Barbara, CA 93102-1990

NO DOCUMENTARY TRANSFER TAX
 NO FEE PER GOVERNMENT CODE § 6103

APN: 031-121-025

**DEVELOPMENT AGREEMENT
 BY AND BETWEEN
 THE CITY OF SANTA BARBARA
 AND
 711 N. MILPAS PARTNERS, L.P.**

THIS DEVELOPMENT AGREEMENT (the “Agreement”) is made and entered into this ____ day of _____, 2021, (the “Effective Date”) by and between the **CITY OF SANTA BARBARA**, a political subdivision of the State of California (the “City”) and **711 N. MILPAS PARTNERS, L.P.**, a California limited partnership (the “Owner”), pursuant to the authority of Sections 65864-65869.5 of the Government Code of the State of California and City Council Resolution No. 89-120. Except as otherwise defined herein, the capitalized terms used throughout this Agreement are defined in Section 27, below.

RECITALS

- A. WHEREAS, the Owner is the record owner of the real property located at 701 N. Milpas Street (formerly 711 N. Milpas Street), Santa Barbara, California (“Property”); and
- B. WHEREAS, the City has granted approval for a 76-unit residential project on the Property, including design review approval (“Prior Approval”); and
- C. WHEREAS, the Owner seeks to secure approval for revisions to the Prior Approval which will increase the number of rental housing units from seventy-six (76) to eighty-two (82), designate sixteen (16) units for moderate income tenants, and alter the exterior architecture from a contemporary style to a style more comparable to the traditional style found in Santa Barbara (“Revised Project”); and
- D. WHEREAS, the Revised Project will be in the best interest of both the City and the Owner as it will ensure that sixteen residential units will be restricted for rent for moderate-income household; and

E. WHEREAS, the proportion of one and two bedroom residential units restricted for rent for moderate-income households will be the same as the proportion for the project as a whole as shown in the following example:

Project Overall

2-Bedroom: 52 (63%)

1-Bedroom: 30 (37%)

Total: 82 (100%)

Affordable Units

2-Bedroom: 10 (63%)

1-Bedroom: 6 (37%)

Total: 16 (100%)

F. WHEREAS, after conducting a duly noticed public hearing on July 15, 2021, the City Planning Commission reviewed, considered, and recommended to City Council adoption of this Agreement; and

G. WHEREAS, after conducting a duly noticed public hearing on _____ and after independent review and consideration, the City Council (i) adopted Ordinance No. ____ (hereinafter the “Enacting Ordinance”) authorizing execution of this Agreement; (ii) found that the provisions of this Agreement provide public benefits to persons residing or owning property in the City of Santa Barbara beyond the exactions for public benefits required or allowed to be required in the normal development review and approval process under federal, state, and local law; and (iii) approved the execution and recording of this Agreement; and

H. WHEREAS, the City finds that this Agreement is consistent with the City of Santa Barbara’s General Plan, and the City of Santa Barbara Zoning Ordinance, and that the City has completed all necessary proceedings in accordance with the City’s rules and regulations for approval of this Agreement.

NOW, THEREFORE, with reference to the foregoing recitals and in consideration of the mutual promises, obligations and covenants herein contained, which are incorporated herein by reference and hereafter made part of this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and the Owner agree as follows:

1. Incorporation of Recitals. The foregoing recitals are hereby incorporated herein as if set forth in full.

2. Purpose. The purpose of this Agreement is to establish a set of procedures by which the Revised Project will be reviewed by the City, including time deadlines applicable to specified commitments of the Owner. The parties have previously accepted a “term sheet” related to the Revised Project.

3. Property Description and Binding Covenants. The Property is that real property described in Exhibit A. Upon execution of this Agreement by the parties and recordation of this Agreement, the provisions of this Agreement shall constitute covenants which shall run with the Property and the benefits and burdens hereof shall bind and inure to all successors in interest and assigns of the parties hereto. This Agreement shall be recorded against the Property as required by California Government Code Section 65868.5.

4. Term; Option to Terminate. The term of this Agreement shall commence upon the effective date of the Enacting Ordinance ("Effective Date"). The term of this Agreement shall extend for a period of ten (10) years after the Effective Date ("Term"), unless said Term is terminated, modified or extended by circumstances set forth in this Agreement or by mutual consent of the parties hereto. City shall have the authority to institute proceedings to terminate this Agreement in the event Owner has not cleared a Roof Nailing Inspection for the Project within thirty-six (36) months of securing all required building and grading permits.

4.1. Tolling and Extension During Legal Challenge or Moratoria. In the event this Agreement, any of the land use entitlements related to the Property, the Environmental Document, or any subsequent approvals or permits required to implement the land use entitlements for the Property or this Agreement are subjected to legal challenge and the Owner is unable to proceed with development of the Property due to such legal challenge (or the Owner provides written notice to the City that it is electing not to proceed with development of the Property until such legal challenge is resolved to the Owner's satisfaction), the Term of this Agreement and timing for obligations imposed by this Agreement shall be extended and tolled during such legal challenge until the entry of a final order or judgment upholding this Agreement, the Environmental Document, or the land use entitlements, approvals, or permits related to this Agreement, or the litigation is dismissed by stipulation of the parties; provided, however, that notwithstanding the foregoing, the Owner shall have the right to elect, in the Owner's sole and absolute discretion, to proceed with development of the Property at any point by providing the City written notice that it is electing to proceed, in which event the tolling of the Term of this Agreement shall cease as of the date of such notice. Similarly, if the Owner is unable to develop the Property due to the imposition by the City or other public agency of a development moratoria for a public health and safety reason unrelated to the performance of the Owner's obligations under this Agreement (including without limitation, moratoria imposed due to the unavailability of water or sewer to serve the Property), then the Term of this Agreement and the timing for obligations imposed pursuant to this Agreement shall be extended and tolled for the period of time that such moratoria prevents development of the Property.

5. Amendment to Agreement. This Agreement may be amended from time to time by mutual written consent of the parties in accordance with applicable laws governing development agreements. The parties acknowledge that under the City Zoning Ordinance and applicable rules, regulations and policies of the City, the Community Development Director or his or her designee has the discretion to approve alterations or revisions to any approved land use entitlement for the Property that are in substantial conformance with the entitlement. Accordingly, any alteration or revision to an entitlement or approval that is determined by the City Community Development Director to be in substantial conformance with the approved land use entitlements and relates to the Property shall not constitute nor require an amendment to this Agreement to be effective.

6. Permitted Uses. The permitted uses of the Property, the intensity and density of use, the maximum height of structures, the location of public improvements and other terms and conditions of development applicable to the Property shall be those set forth in the Project Description attached hereto as Exhibit B.

7. Vested Entitlements. Subject to the provisions and conditions of this Agreement, the City hereby agrees that the City is granting, and grants herewith, a fully vested entitlement and right to develop the Property in accordance with the terms and conditions of this Agreement. The Owner's vested right to proceed with the development of the Property is subject to a subsequent approval process as set forth in this Agreement, including Section 9; provided that any conditions, terms, restrictions and requirements for such subsequent actions shall not prevent development of the Property for the uses set forth in the Project Description, or reduce the intensity or density of development, or limit the rate or timing of development set forth in this Agreement, unless so requested by the Owner and so long as the Owner is not in default under this Agreement.

7.1 Conflicting Ordinances or Moratoria. Except as provided in this Agreement and subject to applicable law relating to the vesting provisions of development agreements, so long as this Agreement remains in full force and effect, no future resolution, rule, ordinance or legislation adopted by the City or by initiative (whether initiated by the City Council or by voter petition, other than a referendum that specifically overturns the City's approval of this Agreement) shall directly or indirectly limit the rate, timing, sequencing or otherwise impede development of the Property from occurring in accordance with this Agreement. To the extent any future rules, ordinances, regulations or policies applicable to development of the Property are not inconsistent with this Agreement, such rules, ordinances, regulations and policies shall be applicable.

7.2 Authority of City. This Agreement shall not be construed to limit the authority or obligation of the City to hold necessary public hearings, or to limit the discretion of the City with regard to applicable laws that would require the exercise of discretion by the City, provided that subsequent discretionary actions shall not prevent or delay development of the Property for the uses and the density and intensity of development as provided by this Agreement.

8. Application and Project Development Fees; Credit for Development Mitigation Fees. The Owner shall pay those application, processing, inspection and plan check fees as may be required by the City under the then-current regulations for processing applications and requests for any subsequent entitlements for the Property,. Consistent with the terms of this Agreement, the City shall have the right to impose and the Owner shall pay such development fees, impact fees and other such fees levied or collected by the City to offset or mitigate the impacts of development of the Property pursuant to any subsequent entitlements, and which will be used to pay for public utilities and improvements attributable to the Property as have been adopted by the City as of the Effective Date of this Agreement ("Development Mitigation Fees"). Unless otherwise specifically provided in this Agreement, any Development Mitigation Fees shall be paid at the time of issuance of building permit.

8.1 Adjustment to Development Mitigation Fees. The City may adjust the Development Mitigation Fees from time-to-time and all such adjustments shall be done in accordance with City policy regarding the assumptions and methodology governing adjustments of City fees generally and in accordance with the Mitigation Fee Act (California Government Code Section 66000 *et seq.*, as may be amended or revised) or other applicable law. In the event the Development Mitigation Fees are reduced or eliminated prior to the time in which the Owner is obligated to pay such Development Mitigation Fee, the Owner shall be entitled to receive the benefit of such reduction.

8.2 New Development Mitigation Fees. In the event that after the Effective Date of the Agreement the City adopts a new development mitigation fee in accordance with the Mitigation Fee Act (“New Development Mitigation Fee”) and the New Development Mitigation Fee is applicable on a city-wide basis and includes the Property, development of the Property will be subject to the New Development Mitigation Fee.

9. Applications for Approvals and Entitlements.

9.1 Actions by the City. City agrees it will accept, in good faith, for processing, review and action all applications for development permits or other land use entitlements for use of the Property, in accordance with this Agreement, and Existing City Laws. Accordingly, to the extent that the applications and submittals are in conformity with Existing City Laws and this Agreement, the City agrees to accept, review and take action on all subsequent applications and submittals made to the City by the Owner for developing the Property. In the event the City has not taken final action on all applications by Owner for discretionary land use approvals within six (6) months of the date each such application is deemed or determined to be complete under applicable law, the Owner shall have the option to present any such application directly to the City Council for final action.

9.2 Actions by Owner. Owner agrees to submit all applications for discretionary development permits and other land use entitlements for use of the Property within ninety (90) days of the effective date of this Development Agreement. Owner agrees to submit applications for building and grading permits for the Project within ninety (90) days of the effective date of all discretionary City land use approvals. Owner agrees to submit all required fees, and to request issuance of all required permits, within ninety (90) days of receiving written notice from City that the construction plans submitted by Owner for the Project have been granted final approval and the building and grading permits are ready to be issued.

10. Continuing Development of Mixed Use Project. The City approves, affirms, and consents to the continuing development of the Property and to the construction of a mixed use project as described in Exhibit B and any other works of improvement (including right-of-way and parking improvements) permitted by the property approvals subject to required Conditions of Approval, Existing City Laws and subject to the terms and conditions of this Agreement at any time during the Term.

11. [reserved]

12. Mutual Cooperation. The parties shall mutually cooperate in achieving the purposes of this Agreement. That cooperation shall include, but not be limited to, the following: (a) The parties may mutually agree to minor amendments to the Project which are determined by the City's Community Development Director to be in substantial conformity with the Prior Approvals; and (b) the parties may mutually agree to minor administrative amendments to this Development Agreement which are consistent with its purposes and intent, and any such amendments may be approved by the City Administrator on behalf of the City. In the event any legal action instituted by any third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending said action.

13. Enforceability. The sole remedy for enforcement of this Agreement is by way of specific performance. The City agrees that unless this Agreement is amended or canceled pursuant to the provisions set forth herein it shall be enforceable according to its terms by any party hereto notwithstanding any change hereafter to any general plan, specific plan, zoning ordinance, subdivision ordinance or building regulation adopted by the City or initiative, which changes, alters or amends the rules, regulations and policies applicable to the development of the Property or the rights granted to the Owner in this Agreement as of the Effective Date of this Agreement.

14. Estoppel Certificate. Either party may, at any time, and from time to time, deliver written notice to the other party requesting such party certify in writing that, to the knowledge of the certifying party, (i) this Agreement is in full force and effect and a binding obligation of the parties, (ii) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (iii) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature of the default. The party receiving the request hereunder shall execute and return such certificate to the requesting party within thirty (30) days following receipt thereof. City acknowledges that a certificate hereunder may be relied upon by transferees and mortgagees of the Owner.

15. Mortgagee Protection. The parties hereto agree that this Agreement shall not prevent or limit the Owner's ability to encumber the Property, or any portion thereof, or any improvement thereon by any mortgage, deed of trust or any other security or financing instrument. City acknowledges that the Owner's lenders or potential lenders may require certain interpretations of the Agreement and modifications and agrees to meet with the Owner and representatives of such lenders or potential lenders to negotiate in good faith any such request for interpretation or modification. City will not unreasonably withhold its consent to any such interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any lender that obtains a mortgage or deed of trust against the Property shall be entitled to the following rights and privileges:

A. Neither entering this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith for value, unless otherwise required by law.

B. The mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which the mortgagee has submitted a written request to the City to receive notices,

may request to receive written notification from the City of any default by the Owner in the performance of the Owner's obligations under this Agreement.

C. If the City timely receives a request from a mortgagee requesting a copy of any notice of default given to the Owner under the terms of this Agreement, the City shall provide a copy of that notice to the mortgagee within ten (10) days of sending notice of default to the Owner. The mortgagee shall have the right, but not the obligation, to cure the default during any cure period allowed to the Owner under this Agreement.

D. Any mortgagee who comes into possession of the Property, or any part thereof, by any means, whether pursuant to foreclosure or deed in lieu of foreclosure or otherwise, shall take the Property, or part thereof, subject to the terms of this Agreement. Provided, however, notwithstanding anything to the contrary above, any mortgagee, or the successors or assigns of any mortgagee, who becomes owner of the Property, or part thereof, through foreclosure shall not be obligated to pay any fees or construct or complete any improvements, unless such owner desires to continue development of the Property consistent with this Agreement and the applicable land use entitlements, in which case the owner by foreclosure shall assume the obligations of the Owner hereunder in a form acceptable to the City.

E. The foregoing limitation on mortgagees and owners by foreclosure shall not restrict the City's ability to specifically enforce against such mortgagees or owners by foreclosure any dedication requirements under this Agreement or under any conditions of any other land use entitlements or approvals related to the Property.

16. State or Federal Law and Regulations. The Owner acknowledges that applications for development permits may be subject to other agency applications, review, permitting, and applicable fees. In the event state or federal law or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans or permits approved or issued by the City, this Agreement shall be suspended or, with the Owner's written consent, modified or extended as necessary to comply with such laws or regulations. Promptly following the enactment of any such law or regulation, the Owner and the City shall meet and confer in good faith to determine the feasibility of any such modification, extension or suspension based on the effect such modification, extension or suspension would have on the purposes and intent of this Agreement and the cost to the Owner of constructing and completing development of the Property. In addition, the Owner shall have the right to challenge such law or regulation, and in the event such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

17. No Waiver. No failure, delay, or omission by a party in exercising or asserting any right, power, or remedy hereunder shall impair such right, power, or remedy, and no failure, delay, or omission by a party occurring upon the other party's noncompliance with or failure to perform the terms and conditions of this Agreement shall be construed as a waiver thereof. A waiver by either party of any failure, delay or omission on the part of the other party shall not be construed as a waiver of any succeeding failure, delay, or omission of the same or other terms or conditions hereof.

18. Force Majeure. In the event any party to this Agreement is unable to perform or fulfill any of the terms or conditions of this Agreement on account of acts of God, enemy action, war, strikes, walk outs, riots, governmental actions or restrictions, administrative appeals or legal actions, judicial orders, third-party actions, floods, earthquakes, fire, casualties, or similar bases for excused performance which is not within the reasonable control of the party to be excused, the party obligated to so perform or prevented from performing thereby shall be excused from said performance until such time as said party shall no longer be prevented from performing on account of any of the foregoing reasons.

19. No Joint Venture or Partnership. Nothing contained herein or in any document executed in connection herewith shall be construed as making the City and the Owner joint venturers or partners.

20. Assignment, Assumption and Release. The rights and obligations of the Owner under this Agreement may be transferred or assigned, provided: (i) such transfer or assignment is made as part of a transfer, assignment, sale or long-term lease of the Property and a concurrent transfer of rights to complete the development of the Property, and (ii) prior to such an assignment, the assignee executes and delivers to the City a written assumption of the Owner's obligations under this Agreement. Any such transfer or assignment shall be subject to the provisions of this Agreement. During the Term of this Agreement, any such assignee or transferee shall observe and perform all of the duties and obligations of the Owner contained in this Agreement as such duties and obligations pertain to the Property so transferred or assigned. The Owner shall give the City prompt written notice of any such transfer or assignment. The Owner may free itself from its obligations under this Agreement provided that the transferee or assignee expressly assumes such obligations and agrees to be bound by the terms and conditions of this Agreement with respect to the Property. Upon the full execution of the assumption and assignment agreement, the transferee or assignee shall thenceforth be deemed to be "the Owner" hereunder. Notwithstanding the foregoing, this Section 20 shall not apply to any mortgagee who comes into possession of the Property, for any part thereof, by any means, whether pursuant to foreclosure or deed in lieu of foreclosure or otherwise.

21. Permitted Extensions by City. In addition to any extensions of time otherwise provided in this Agreement, the City, in its sole discretion and acting through its Community Development Director or his or her designee, may extend the time for performance by the Owner of any obligation hereunder. Any such extension shall not require an amendment to this Agreement, so long as such extension only involves the time for performance thereof and does not change the obligations to be performed by the Owner as a condition of such extension.

22. Notices. Any notice or communication required by this Agreement must be in writing and may be given either by personal service or registered or certified mail, return receipt requested. Any notice or communication personally served shall be deemed given and received on the date of personal service on the party noticed at the appropriate address designated below, and any notice or communication sent by registered or certified mail, return receipt requested, properly addressed to the appropriate address designated below, with postage prepaid, shall be deemed given and received on the date appearing on the signed return receipt. Any party hereto may at any time and from time to time, in the manner provided herein, designate any other

address in substitution of the address to which such notice or communication shall be given. All such notices or communications shall be given to the parties at the addresses hereinafter set forth:

IF TO THE CITY:

Community Development Director
City of Santa Barbara
630 Garden Street
Post Office Box 1990
Santa Barbara, CA 93102

with copies to:
Santa Barbara City Attorney
740 State Street, Suite 201
Santa Barbara, CA 93101

IF TO THE OWNER:

711 N. Milpas Partners, L.P.
[insert address]

with copies to:

Steven A. Amerikaner
Brownstein Hyatt Farber Schreck
1021 Anacapa Street, Second Floor
Santa Barbara, CA 93101

23. [reserved]

24. Enforceability. Except as otherwise provided herein, the rights of the parties under this Agreement shall be enforceable notwithstanding any change subsequent to the Effective Date in any applicable general plan, specific plan, municipal ordinance, or building, zoning, subdivision or other land use ordinance or regulation.

25. Limitation of Remedies. It is acknowledged by the parties that neither party would have entered into this Agreement if doing so would subject it to the risk of incurring liability in money damages, either for breach of this Agreement, anticipatory breach, repudiation of the Agreement, or for any actions with respect to its implementation or application. The parties intend by the provisions of this Section 25 that neither of the parties shall have any liability for money damages arising out of a breach or repudiation of this Agreement, and no liability in money damages for any claims arising out of the application process, negotiation, execution and adoption, or the implementation or application of this Agreement. Each of the parties to this Agreement may pursue any remedy at law or equity available for the breach of any provision of

this Agreement, including but not limited to specific performance, temporary or permanent injunctive relief, declaratory relief, or restraining orders, except that the parties shall have no liability in money damages for any acts which are alleged to have arisen out of or relate to this Agreement.

The parties further acknowledge that money damages and remedies at law generally are inadequate, and specific performance is the most appropriate remedy for the enforcement of this Agreement and should be available to all parties for the following reasons:

- (a) Money damages are excluded as provided above.
- (b) Due to the size, nature, and scope of development of the Property, it may not be practical or possible to restore the Property to its original condition once implementation of this Agreement has begun. After such implementation, the Owner may be foreclosed from other choices they may have had to utilize the Property or portions thereof. The Owner have invested significant time and resources and performed extensive planning and processing of the Development Approvals in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Development Approvals in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate the Owner for such efforts.

Except for claims, demands, actions, or suits in which non-money damages is the sole remedy sought, including without limitation the remedy of specific performance, temporary or permanent injunctive relief, declaratory relief, or restraining orders, the Owner, on the one hand, and the City, on the other hand, for themselves, their successors and assignees, hereby release one another's officers, trustees, directors, partners, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth and Fourteenth Amendments of the United States Constitution, or any other law or ordinance which seeks to impose any money damages, whatsoever, upon the parties because the parties entered into this Agreement, because of the terms of this Agreement, or because of the manner of implementation or performance of this Agreement.

26. Annual Reviews. As required by California Government Code § 65865.1 and any City procedures adopted pursuant thereto, the City's Public Works Director and Community Development Director shall review the Owner's performance pursuant to the terms of this Agreement at least once every twelve (12) months throughout the Term of this Agreement.

27. Definitions.

Approved Floor Area. Existing development rights as defined in Section 28.95.020.A.2 of the Santa Barbara Municipal Code.

Development Approvals. Those certain development approvals related to the Revised Project.

Existing City Laws. The City's general plan, ordinances, resolutions, codes, rules, regulations, and official policies governing the permitted uses of land, density and intensity of use, maximum height, bulk, size, scale, design, location and construction standards and specifications applicable to this Agreement, the Conditions of Approval, and the Property in effect as of the Effective Date without regard to any amendments or modifications thereto that become effective after the Effective Date.

Moderate-Income Household. A household whose income does not exceed the moderate-income limits applicable to Santa Barbara County as defined in California Health and Safety Code Section 50093 and published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development. Moderate-income households are generally households with incomes between 80% and 120% of area median income.

28. City's Authority to Enter into Agreement. California Government Code §§ 65864-65869.5 authorize local agencies to enter into a binding development agreement (as such agreements are defined by California Government Code §§ 65864-65869.5) with a property owner for the development of property in order to give assurances to the property owner and the city that upon approval, a development project can proceed in accordance with existing land development policies, rules and regulations. Under the Santa Barbara City Charter, the City exercises control over municipal affairs, including the land development process, and has the authority to enter into development agreements for purposes consistent with the public health, safety and general welfare. On October 17, 1989, the City Council adopted Resolution No. 89-120 establishing procedures for considering statutory development agreements, which resolution sets forth in Recitals A-D thereof the City authority and public purpose of such agreements. Based on the foregoing, the City is authorized to enter into this Agreement.

IN WITNESS WHEREOF, this Agreement was executed by the parties thereto as of the Execution Date.

CITY OF SANTA BARBARA

711 N. MILPAS PARTNERS, L.P. ,
a California limited partnership

By: _____
Paul Casey
City Administrator

By: _____

ATTEST:

Edward St. George
General Partner

Sarah Gorman
City Clerk Services Manager

APPROVED AS TO CONTENT:

Community Development Director

APPROVED AS TO CONTENT:

Public Works Director

APPROVED AS TO FORM

Ariel Calonne
City Attorney

EXHIBIT A
LEGAL DESCRIPTION

THAT PORTION OF BLOCK 184 IN THE CITY OF SANTA BARBARA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY CORNER OF CITY BLOCK 184 AND PARCEL 4 DESCRIBED IN GRANT DEED TO 711 N. MILPAS LLC RECORDED IN INSTRUMENT No. 2011-0045435 OF OFFICIAL RECORDS IN THE COUNTY RECORDER'S OFFICE, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA; THENCE,

NORTHWESTERLY 300.12 FEET ALONG THE NORTHEASTERLY LINE OF SAID CITY BLOCK 184, ALSO BEING THE NORTHEASTERLY LINES OF PARCELS 1, 4, 5 AND 7 DESCRIBED IN SAID INSTRUMENT No. 2011-0045435 OF OFFICIAL RECORDS AND LAND DESCRIBED IN GRANT DEED TO 711 N. MILPAS LLC RECORDED IN INSTRUMENT No. 2016-0006653 OF OFFICIAL RECORDS IN SAID COUNTY RECORDER'S OFFICE TO THE MOST NORTHERLY CORNER OF SAID PARCEL 1; THENCE,

SOUTHWESTERLY 150.00 FEET ALONG THE NORTHWESTERLY LINE OF SAID PARCEL 1 TO THE NORTHEASTERLY LINE OF PARCEL 9 OF SAID INSTRUMENT No. 2011-0045435; THENCE,

NORTHWESTERLY 30.00 FEET ALONG THE NORTHEASTERLY LINES OF SAID PARCEL 9 AND PARCEL 8 OF SAID INSTRUMENT No. 2011-0045435 TO THE MOST NORTHERLY CORNER OF SAID PARCEL 8; THENCE,

SOUTHWESTERLY 76.84 FEET ALONG THE NORTHWESTERLY LINE OF SAID PARCEL 8 TO THE MOST WESTERLY CORNER OF SAID PARCEL 8; THENCE,

SOUTHEASTERLY 330.12 FEET ALONG THE SOUTHWESTERLY LINE OF PARCELS 2, 3, 8 AND 9 OF SAID INSTRUMENT No. 2011-0045435 TO THE MOST SOUTHERLY CORNER OF SAID PARCEL 3, ALSO BEING A POINT ON THE SOUTHEASTERLY LINE OF SAID BLOCK 184; THENCE,

NORTHEASTERLY 226.84 FEET ALONG SAID SOUTHEASTERLY LINE (ALSO BEING THE SOUTHEASTERLY LINE OF SAID PARCELS 3 AND 4) TO THE POINT OF BEGINNING.

EXHIBIT B

Project Description

The Project includes a total of 82 one- and two-bedroom residential rental units. The unit mix will consist of 30 one-bedroom and 52 two-bedroom units. Sixteen moderate-income units will be provided in accordance with the City's Affordable Housing Policies and Procedures, and for those units, the owners voluntarily agree to use reasonable and good faith efforts to implement a "local preference" specifically for local teachers, health care workers, and first responders, to the extent the local preference leasing policy is consistent with state and federal law. The Project includes a total of 1,365 square feet (sf) of non-residential floor area. The Project has been designed to conform to the City's New Zoning Ordinance (Santa Barbara Municipal Code Title 30) and the 2019 California Building Code.

A summary of the Project's conformance with the applicable zoning standards is provided below:

Residential Density (SBMC §30.150.170):

For the C-G zone, a maximum density of 28-36 units/acre is allowed; however, for rental housing projects, the Priority Housing Overlay allows a maximum density of 37-63 units/acre. The residential units will remain as rental housing in perpetuity, and thus the project is considered a Community Benefit Housing Project in the Priority Housing Overlay zone. The density of the Project is 54 units/acre (82 units / 1.52 acres). In addition, per the Priority Housing Overlay AUD density table, the maximum average unit size for projects up to 54 du/ac is 901 sf. The average unit size for the Project is 765 sf. Thus, the Project remains in conformance with the maximum density and maximum average unit size allowed in the Priority Housing Overlay zone.

Building Height (SBMC §30.150.090.C / SBMC §30.25.030):

The maximum building height allowed for the C-G zone is currently 45 feet, except that Community Benefit Housing Projects are eligible to receive approval of a height increase of up to 60 feet by the Planning Commission. Because all proposed residential units will remain rental apartments in perpetuity, the Project is therefore considered a Community Benefit Housing Project. The majority of the proposed structure will be 48 feet tall. A few portions will be a maximum height of 52 feet. This is required to accommodate the pitched roofs and parapets characteristic of the proposed Spanish-Mediterranean style and some architectural projections added for aesthetic interest. As such, Planning Commission approval is requested for the increased height.

Minimum Setbacks (SBMC §30.150.090.E.1):

Minimum required setbacks include a 5-foot variable front setback along Milpas Street and Ortega Street, and 0-foot interior setbacks for properties adjacent to non-residential zones.

The proposed building meets all setbacks; however, a total of thirteen parking spaces along Ortega Street remain located within the 5-foot variable setback. The Staff Hearing Officer approved a setback modification in April 2016 (as part of a previous discretionary approval) to allow twelve parking spaces in an identical configuration along the Ortega Street Frontage to encroach into the required setback. At that time, these spaces were designated solely for the commercial uses. Because the Project includes a reduction in commercial floor area, only six commercial spaces are required. The SHO approval included conditions that the Ortega Street parking spaces be restricted to 90-minute parking. The proposed project includes a request for a Front Setback Modification to allow thirteen parking spaces to be located within the 5-foot variable setback along Ortega Street. This includes twelve spaces for which the SHO previously approved a similar Modification, and one space that was inadvertently left out of the previous Modification even though it had been shown on the plans when the Modification was considered and approved. One of the thirteen spaces would be reserved for residential use at all

times. The remaining twelve spaces closest to Milpas Street would be designated as discussed below in the parking section.

Open Yard (SBMC §30.150.090.G.2.b.iii):

Common open space is provided per the requirements in SBMC §30.150.090.G(2)(b)(iii) requiring total common open space of 15% of the net lot area or 9,909 square feet (66,059 square feet x 15%). The Project provides a total of approximately 11,227 square feet of common open space, or 16.9%, and includes one 20-foot by 20-foot area that is accessible to all units, and thus conforms to the required open space requirements.

Parking (SBMC §30.150.090.F / SBMC Chapter 30.175):

The Project includes the required 82 residential parking spaces, at one space per residential unit, and 6 spaces for the nonresidential floor area (1/250 sf x 1,365 sf). The Project also includes twenty-two residential parking spaces that will be located in tuck-under mechanical parking lift systems. These spaces will function as tandem parking with the at-grade spaces beneath the lifts, and will be available only for tenants of 22 of the 2-bedroom units to ensure that tenants of two separate units do not share these spaces. The Project will include a total of 110 spaces, consisting of 98 full-time residential spaces and twelve spaces that will be shared.

On Monday through Friday, between 9 am and 6 pm, the 12 parking spaces located within the front setback on Ortega Street would be 90-minute restricted parking and would serve the proposed commercial uses onsite, as well as allow general commercial parking for the area.

On weekends, between 9 am and 6 pm, six of the spaces would be 90-minute restricted parking and would serve the proposed commercial uses onsite, as well as allow general commercial parking for the area, and six would be reserved for the six remaining residential units.

On all days, after 6 pm, six of the spaces would be reserved for the six remaining residential units and six spaces would be available for guests.

A Parking Modification is requested to allow less than the required number of parking spaces because the six spaces would not be available at all times for the residents.

Bicycle parking is required at a rate of one space per residential unit, and one space per 1,750 square feet of general retail development. The Project will include a total of 86 bicycle parking spaces consisting of 82 residential spaces and 4 commercial spaces.

Comparison with Previous Approval

The following table compares the relevant statistics of the Project, and those of the approved development which received final discretionary approval by the City in 2019.

Standard/Item	Previous Approval	Project
<i>Total Number of Residential Units</i>	76	82
<i>Average Unit Size</i>	683 sf	765 sf
<i>Number of Affordable Units</i>	0	16 Moderate-Income (80-120% AMI)

Standard/Item	Previous Approval	Project
<i>Square Footage of Proposed Retail</i>	2,737 sf	1,365 sf
<i>Vehicle Parking</i> <i>Commercial</i> <i>Residential</i> <i>Shared-Use</i> Total	12 spaces 76 spaces 0 spaces 88 spaces	6 spaces 98 spaces (22 in tandem) 6 spaces 110 spaces
<i>Bicycle Parking</i> <i>Commercial</i> <i>Residential</i> Total	2 short-term spaces / 2 secure 76 spaces 80 spaces	2 short-term spaces / 2 secure 82 spaces 86 spaces
<i>Proposed Height</i>	45'	52'
<i>Proposed Density</i>	50 du/acre	54 du/ac
<i>Common Open Space</i>	16,490 sf (25%) *	11,227 sf (16.9%) *
<i>Setbacks</i> <i>Milpas (Front)</i> <i>Ortega (Front)</i> <i>South</i> <i>West</i>	5' average; 9'4" max 0' parking; 25' structure 6' parking; 50' structure 5' parking; 43' structure (min)	5' average; 9'4" max 0' parking; 25' structure 6' parking; 47' structure 6' parking; 47' structure (min)

* In the New Zoning Ordinance (Title 30), the methodology for calculating required common open space has changed. Thus, some areas previously contributing to total common open space can no longer be counted toward this requirement.

Required Discretionary Approvals

Based on the proposed program and design, and consultation with City staff, discretionary approvals will include the following:

1. Height Exception by the Planning Commission to allow a Community Benefit Project to be between 45 and 60 feet in height (SBMC §30.140.100.B);
2. Front Setback Modification by the Planning Commission to allow uncovered parking spaces to encroach into the required front setback along Ortega Street (SBMC §30.150.090 and SBMC §30.250.020);
3. Parking Modification by the Planning Commission to allow less than the required number of parking spaces (SBMC §30.150.090 and SBMC §30.250.020); and
4. Project Design and Final Approvals by the Architectural Board of Review (SBMC Chapters 22.68 and 30.220).

Pursuant to SBMC §30.205.050.B, for projects which require multiple discretionary approvals, all requests shall be reviewed, heard, and acted upon concurrently by the highest applicable review authority. As such, the Planning Commission would review and approve both the height increase and the Modifications.